

***MINUTES***  
***CITY COMMISSION MEETING***  
***TUESDAY, OCTOBER 17, 2006***  
***7:00 P.M.***

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bruce Snead and Commissioners Tom Phillips, Mark Hatesohl, Jayme Morris-Hardeman, and Ed Klimek were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Diane Stoddard, Assistant City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, Youth in Government Representative Felix Wang, 9 staff, and approximately 45 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Snead led the Commission in the Pledge of Allegiance.

**COMMISSIONER COMMENTS**

Mayor Snead invited the community to meet the Parks and Recreation candidates this Thursday, October 19, 2006, 5:15 p.m., at City Hall. He also recognized the Youth in Government program and introduced student representatives Felix Wang, Ani Mulukutla, and Thomas Irvin.

**CONSENT AGENDA**

(\* denotes those items discussed)

**MINUTES**

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, October 3, 2006.

**CLAIMS REGISTER NO. 2570**

The Commission approved Claims Register No. 2570 authorizing and approving the payment of claims from September 10, 2006, to October 10, 2006, in the amount of \$728,304.67.

## CONSENT AGENDA (CONTINUED)

### LICENSE – CEREAL MALT BEVERAGE

The Commission approved the application for 2007 Cereal Malt Beverage License for Porters Bar & Deli, 706 North Manhattan Avenue.

### FINAL PLAT – ABBOTT & DENNING ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Abbott & Denning Addition, generally located west of the intersection of Monarch Circle and Hudson Avenue, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### FINAL PLAT – LEE MILL HEIGHTS ADDITION, UNIT THREE

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Lee Mill Heights Addition, Unit Three, located generally at the west end of Miller Parkway, based on conformance with the Manhattan Urban Area Subdivision Regulations.

### ORDINANCE NO. 6581 – LEVY – AGGIEVILLE BUSINESS IMPROVEMENT SERVICE FEES

The Commission approved Ordinance No. 6581 levying Business Improvement Service Fees, for the year 2007, on businesses located within the Aggieville Business Improvement Districts.

### ORDINANCE NO. 6582 – LEVY – DOWNTOWN BUSINESS IMPROVEMENT SERVICE FEES

The Commission approved Ordinance No. 6582 levying Business Improvement Service Fees, for the year 2007, on businesses located within the Downtown Business Improvement Districts.

### ORDINANCE NO. 6583 – REZONE – 1423 FAIR LANE

The Commission approved Ordinance No. 6583 rezoning 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District, based on the findings in the Staff Report. *(See Attachment No. 1)*

### ORDINANCE NO. 6584 – REZONE – INTERSECTION OF HAYES DRIVE AND MCCALL ROAD

The Commission approved Ordinance No. 6584 rezoning the .88-acre site, generally located northwest of the intersection of Hayes Drive and McCall Road, from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report. *(See Attachment No. 2)*

## CONSENT AGENDA (CONTINUED)

\* **ORDINANCE NO. 6585 – ADOPT – 2006 STANDARD TRAFFIC  
ORDINANCE FOR KANSAS CITIES**

Bill Frost, City Attorney, and Katie Jackson, Assistant City Attorney, provided additional information on the item and answered questions from the Commission.

The Commission approved Ordinance No. 6585 incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2006.

**RESOLUTION NO. 101706-B – KIMBALL TOWNHOMES – STREET  
IMPROVEMENTS (ST0622)**

The Commission found the petition sufficient and approved Resolution No. 101706-B finding the project advisable and authorizing construction for Kimball Townhomes Street Improvements (ST0622).

**RESOLUTION NO. 101706-C – KIMBALL TOWNHOMES – WATER  
IMPROVEMENTS (WA0621)**

The Commission found the petition sufficient and approved Resolution No. 101706-C finding the project advisable and authorizing construction for Kimball Townhomes Water Improvements (WA0621).

**RESOLUTION NO. 101706-D – KIMBALL TOWNHOMES – SANITARY  
SEWER IMPROVEMENTS (SS0609)**

The Commission found the petition sufficient and approved Resolution No. 101706-D, finding the project advisable and authorizing construction for Kimball Townhomes Sanitary Sewer Improvements (SS0609).

**AGREEMENT – ENGINEERING SERVICES – KIMBALL TOWNHOMES  
IMPROVEMENTS**

The Commission authorized the Mayor and City Clerk to execute an agreement with Schwab-Eaton P.A., of Manhattan, Kansas, to perform engineering services for improvements at Kimball Townhomes.

**AWARD CONTRACT – KIMBALL TOWNHOMES IMPROVEMENTS  
(SS0609, WA0621, ST0622)**

The Commission accepted the Engineer's Estimate in the amount of \$771,668.00 for Kimball Townhomes Improvements and awarded a construction contract in the amount of \$728,504.10 to Walters-Morgan Construction Company, Inc., of Manhattan, Kansas.

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACTS – HOUSING REHABILITATION PROJECTS

The Commission accepted the bids for 2017 Judson Street and 2132 Northview Drive, awarded the bid to the lowest responsible bidder, authorized City Administration to approve any necessary change orders, and authorized the Mayor and City Clerk to enter into agreements with the contractors and property owners for expenditure of Housing Rehabilitation Funds.

### CHANGE ORDER NO. 1-FINAL – GRAND MERE VANESTA, UNIT 1 – STREET IMPROVEMENTS (ST0520)

The Commission approved the Final Change Order for 2006 Street Improvements for Grand Mere Vanesta, Unit 1 (ST0520), resulting in a net increase in the amount of \$20,417.00 (+4.4 %) to the contract with Nowak Construction Co., Inc., of Goddard, Kansas.

### REQUEST FOR PROPOSALS – NISTAC – SECURITY SYSTEM AND TELECOMMUNICATIONS SYSTEM

The Commission authorized the acceptance of proposals for the security system and telecommunications system at the NISTAC building in the K-State Research Park as presented along with a 5% contingency factor to address any anomalies which may occur during actual installation.

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### REQUEST FOR PROPOSAL – SANITARY SEWER COLLECTION SYSTEM INVERTED SIPHON

Ron Fehr, City Manager, and Jerry McIntyre, Deputy Director of Public Works, answered questions from the Commission regarding odor issues.

The Commission authorized City Administration to solicit proposals for the design of an odor control system for the sanitary sewer collection system inverted siphon.

### HARDWARE/SOFTWARE MAINTENANCE AND SUPPORT SERVICES

The Commission authorized the City of Manhattan to purchase a three-year prepayment agreement with low bidder HTE VAR, LLC, of Chamblee, Georgia, for hardware/software maintenance and support services.

### BOARD APPOINTMENTS

The Commission approved appointments by Mayor Snead to various boards and committees of the City.

## CONSENT AGENDA (CONTINUED)

### BOARD APPOINTMENTS (CONTINUED)

#### City/University Special Projects Fund

Appointment of Tanner Banion, 1100 Fremont Street, to a Student term. Mr. Tanner's term begins immediately and will expire on June 30, 2007.

Appointment of Lydia Peele, 1516 McCain Lane, to a Student term. Ms. Peele's term begins immediately and will expire on June 30, 2007.

After discussion, Commissioner Hatesohl moved to approve the consent agenda, as read. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

## GENERAL AGENDA

### CONSULTANT SELECTION - FLINT HILLS REGIONAL GROWTH COORDINATION PLAN

Karen Davis, Director of Community Development, presented the item. She then answered questions from the Commission.

After discussion, Commissioner Hatesohl moved to authorize the Mayor and City Clerk, on behalf of the Flint Hills Regional Task Force to enter into an agreement with EDAW, Inc., of Atlanta, Georgia, for preparation of the Flint Hills Regional Growth Coordination Plan. Commissioner Morris-Hardeman seconded the motion. On a roll call vote, motion carried 5-0.

### 2007 COMMUNITY DEVELOPMENT BLOCK APPLICATION - MANHATTAN EMERGENCY SHELTER, INC.

Karen Davis, Director of Community Development, presented the item.

Mayor Snead opened the public hearing.

Mandy Chapman Semple, Executive Director, Manhattan Emergency Shelter, Inc., provided additional information on the request and stated that the block grant application is for the Emergency Shelter facility only. She then answered questions from the Commission and informed them on the needs of the Emergency Shelter.

Karen Davis, Director of Community Development, answered questions from the Commission about rezoning and architectural drawings.

## GENERAL AGENDA (CONTINUED)

### 2007 COMMUNITY DEVELOPMENT BLOCK APPLICATION - MANHATTAN EMERGENCY SHELTER, INC. (CONTINUED)

Mandy Chapman Semple, Executive Director, Manhattan Emergency Shelter, Inc., answered additional questions about the Emergency Shelter and ongoing costs for a new facility.

Bruce McMillan, Architect, informed the Commission that this project will be a Planned Unit Development and will be reviewed by the Manhattan Urban Area Planning Board and the City Commission. He then provided a general update on the proposed facility.

Hearing no other comments, Mayor Snead closed the public hearing.

After discussion, Commissioner Morris-Hardeman moved to approve Resolution No. 101706-A, authorizing submission of an application for 2007 Community Development Block Grant Funds for the Manhattan Emergency Shelter Project and authorize the Mayor and City Clerk to sign an agreement between the City and Emergency Shelter. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

### MUNICIPAL FACILITY REVIEW - EXPANSION - RILEY COUNTY LAW ENFORCEMENT CENTER

Eric Cattell, Assistant Director for Planning, presented the item.

Commissioner Klimek provided additional information on the recent actions of the Law Board in regards to authorization of additional staff.

Mayor Snead opened the public hearing.

Lance Luftman, Assistant Director, Riley County Police Department, informed the Commission that this need was brought to the Law Board nearly two years ago and the Law Enforcement Center needs the additional space. He then answered questions from the Commission.

Hearing no other comments, Mayor Snead closed the public hearing.

After discussion, Commissioner Morris-Hardeman moved to find that the public interests to be served by the proposed expansion of the Riley County Law Enforcement Center, outweigh the impacts upon legitimate community interests, as mitigated by the condition of approval; and, approve first reading of an ordinance authorizing the proposed LEC expansion, generally located at 1001 S. Seth Child Road, based on the findings in the Staff Report, with the one condition of approval recommended by the Planning Board. (*See Attachment No. 3*) Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

## GENERAL AGENDA (CONTINUED)

### ORDINANCE - PROHIBIT SMOKING IN SPECIFIED PLACES

Jason Hilgers, Assistant City Manager, presented the item and answered questions from the Commission regarding enforcement and potential legal challenges with the proposed ordinance.

Bill Frost, City Attorney, provided clarification on the proposed ordinances. He then answered questions from the Commission regarding potential challenges and purposes of the ordinances.

Jason Hilgers, Assistant City Manager, provided additional information on the item regarding places of employment.

David Seay, 803 Pierre Street, read an article from the Washington Post regarding improved health benefits with the adoption of a good no smoking ordinance. He said the data supports a strong no smoking ordinance and encouraged the Commission to adopt a smoking ban in Manhattan.

Linda Richter, 2383 Grandview Terrace, spoke in support of the ordinance presented earlier from Clean Air Manhattan. She stated that a smoking ban is needed to protect the health of our community.

Bob Hertz, 3014 Cherry Hill, informed the Commission that they were elected to protect the health and welfare of the community and asked that they support the health of the community.

Dr. James Gardner, President, Riley County Medical Society, stated that significant statements have been made in the Surgeon General's Report on the negative affects of second hand smoke. He said the longer we wait to adopt a smoke free environment the more damage that will occur in our community.

Megan Allen, 5630 Tuttle Creek Boulevard, representing students involved in D.A.R.E. and Teens Leading Teens, asked the Commission to approve ordinance number one and make the environment smoke free.

Marcus Kit, 3428 Chimney Rock Road, sophomore at Manhattan High School, asked the Commission to keep the children safe and spoke against proposed ordinance number two.

Dee Robert Ross, 2304 Brockman Street, spoke against the Clean Air Manhattan ordinance and asked the Commission not to be dictators and allow private business owners the freedom to operate as a private enterprise.

## GENERAL AGENDA (CONTINUED)

### ORDINANCE - PROHIBIT SMOKING IN SPECIFIED PLACES (CONTINUED)

Stacy Novak, representing the Regional Prevention Center at K-State, stated this is a public health issue and a consistent no tolerance message is needed for the youth of the community.

Joan Coovert, 900 Gillespie Drive, said that a no smoking ordinance does not take away the freedoms that our veterans have fought for, but does take away the freedom to breathe fresh air and to stay healthy. She asked the Commission to approve an ordinance that is clean, fair and simple.

Charlene Brownson, representing Clean Air Manhattan; Bill Richter, 2383 Grand View Terrace; and Beth Reese, 2008 Ivy Drive, all spoke in favor of the Clean Air Manhattan ordinance.

Bill Frost, City Attorney, responded to questions from the public.

Mary Jane Hellebust, Tobacco Free Kansas, said the adoption of a poor ordinance would be a temporary setback and missed opportunity to improve the health of the community. She stressed the difficulty in enforcement and requested that a strong, fair and simple ordinance be adopted.

Janelle McIlvain, 804 Glenstone Circle, stated that first reading of the proposed ordinance will not work and that strong ordinances are being passed throughout the country. She said Clean Air Manhattan will continue to push for a strong ordinance to protect the health of our community from second hand smoke.

James Schlegel, 802 Northfield Road, informed the Commission that if people care about the air quality that they breathe, they wouldn't drive their vehicles because of the dangerous fumes from the gas.

Bob Kennedy, 2001 Hillview Drive, stated that the amount of evidence is overwhelming and asked if there is a hidden agenda or special interest group driving those that voted against the Clean Air Manhattan ordinance. He said we expect the Commission to protect the health and safety of our children and community.

Eddie Jorns, 3031 Conrow Drive, said the welfare of our children is vital and quoted a survey from the London Times who reported rising revenues from pubs after a recent smoking ban.

## GENERAL AGENDA (CONTINUED)

### ORDINANCE - PROHIBIT SMOKING IN SPECIFIED PLACES (CONTINUED)

Mayor Snead moved to approve second reading of the version number one ordinance with the exceptions to include private residences, outdoor areas, a percentage of hotel and motel rooms, and retail tobacco stores, as presented at the October 3, 2006, City Commission meeting. Commissioner Morris-Hardeman seconded the motion.

Bill Frost, City Attorney, provided clarification on second reading of the motion and consideration of the prior ordinances, as well as the need for an effective date of the ordinance.

Mayor Snead made an amendment to the motion to include an effective date of the ordinance on February 1, 2007. Commissioner Morris-Hardeman approved the amendment.

Bill Frost, City Attorney, and Katie Jackson, Assistant City Attorney, answered additional questions from the Commission.

After discussion, on a roll call vote, motion failed 2-3, with Commissioners Phillips, Hatesohl and Klimek voting against the motion.

After additional discussion, Commissioner Phillips moved to approve Ordinance No. 6586 restricting smoking in restaurants during certain hours of the day, effective February 1, 2007. Commissioner Klimek seconded the motion.

After discussion, Mayor Snead made a friendly amendment to sunset the exemptions as of February 1, 2008. Commissioner Morris-Hardeman seconded the amendment. After additional discussion, Mayor Snead withdrew his amendment to the motion.

After discussion, on a roll call vote, motion failed 2-3, with Mayor Snead and Commissioners Hatesohl and Morris-Hardeman voting against the motion.

At 9:50 p.m., the Commission took a brief recess.

### APPLICATION - KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT LOAN - WATER TREATMENT PLANT AND WELLFIELD IMPROVEMENTS PROJECT

Jerry McIntyre, Deputy Director of Public Works, presented the item. He then answered questions from the Commission.

Mayor Snead opened the public hearing.

## GENERAL AGENDA (CONTINUED)

### APPLICATION - KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT LOAN - WATER TREATMENT PLANT AND WELLFIELD IMPROVEMENTS PROJECT (CONTINUED)

Hearing no comments, Mayor Snead closed the public hearing.

Bernie Hayen, Director of Finance, responded to questions from the Commission.

Ron Fehr, City Manager, provided additional information on the item and answered questions from the Commission.

After discussion, Commissioner Hatesohl moved to approve Resolution No. 101706-E authorizing the completion of an application to the Kansas Department of Health and Environment regarding a loan from the Kansas Public Water Supply Loan Fund for the Water Treatment Plant and Wellfield Improvements Project. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 5-0.

### RESOLUTION NO. 101706-F - INCORPORATION OF GREEN VALLEY CITY

Diane Stoddard, Deputy City Manager, presented the item.

Bill Frost, City Attorney, provided additional information about the hearing and process.

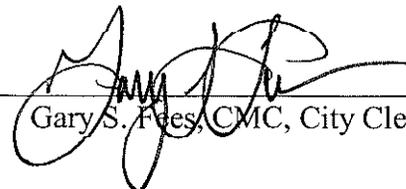
Dee Robert Ross, 2304 Brockman Street, questioned the actions of the Planning Board on October 16, 2006, for the Heritage Square rezoning.

Ron Fehr, City Manager, and Bill Frost, City Attorney, provided additional information on the zoning and annexation process.

After discussion, Commissioner Phillips moved to approve Resolution No. 101706-F providing comment and expressing opposition to the Pottawatomie County Board of Commissioners related to the proposed incorporation of Green Valley City bordering the City of Manhattan to the east. Commissioner Hatesohl seconded the motion. On a roll call vote, motion carried 5-0.

### ADJOURNMENT

At 10:28 p.m. the Commission adjourned.

  
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Gary S. Fees, CMC, City Clerk

**STAFF REPORT**

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** I-3, Light Industrial District.

**TO:** LM-SC, Light Manufacturing-Service Commercial District.

**APPLICANTS:** Sinaa Abdulmir and Imad Khamis.

**ADDRESS:** 2143 Prairie Glen Place, Manhattan, KS 66502

**OWNERS:** Sinaa Abdulmir and Imad Khamis.

**ADDRESS:** 2143 Prairie Glen Place, Manhattan, KS 66502

**LOCATION:** south of Ft. Riley Boulevard, and on the north side of Fair Lane between S. 14<sup>th</sup> Street and S. 15<sup>th</sup> Street, generally at 1423 Fair Lane.

Lots 187-189, and the west ½ of Lot 190, Ward 6. In the 1980's, the north 20 feet of the lots was acquired as Permanent Easement for Right-of-Way with the Ft. Riley Boulevard street project.

**AREA:** approximately .52 acres (22, 651 square feet).

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, August 28, 2006

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, September 18, 2006

**CITY COMMISSION:** Tuesday, October 3, 2006

**EXISTING USE:** Vacant light industrial tract of land.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The undeveloped site is a generally flat grass covered tract of land with several large deciduous trees along Fair Lane. The site is slightly elevated above the Ft. Riley Boulevard, which is to the north. Fair Lane, a concrete alley approximately 15 feet in width, is to the south of the site and is the only access to the tract. No access (curb cut) is allowed onto Ft. Riley Boulevard. The site drains to Fair Lane and to the east. In the 1980's, the north 20 feet of the lots was acquired as Permanent Easement for Right-of-Way with the Ft. Riley Boulevard street project.

**SURROUNDING LAND USE AND ZONING:**

- (1) **NORTH:** Ft. Riley Boulevard, nonconforming residence, City Parks and Recreation shops; I-3 District.
- (2) **SOUTH:** Fair Lane, nonconforming residence, storage yard, City storm water detention flood basins; I-3 District.
- (3) **EAST:** Storm detention/flood basins (City of Manhattan); I-3 District.
- (4) **WEST:** Telephone substation, nonconforming residence, S. 15<sup>th</sup> Street, Thomas Sign and museum; I-3 and LM-SC Districts.

**GENERAL NEIGHBORHOOD CHARACTER:** Generally a light industrial neighborhood consisting of a mix of contractors and nonconforming residential uses, which is separated from areas to the north by Fort Riley Boulevard. Existing uses are accessed from Fair Lane. The immediate neighborhood in the 1400-1500 block of Fair Lane is predominantly nonconforming residential, with light industrial uses to the south, west, and north of Ft. Riley Boulevard. To the east is undeveloped and used for storm water flood basins.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is suitable for the permitted and conditional uses of the I-3 District and is greater in minimum lot size than required by the I-3 District. Minimum lot size is 5,000 square feet and the site is approximately 22,651 square feet in area.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The LM-SC District allows for a range of permitted uses found in both the C-5, Highway Service Commercial District, and the I-3 District. The area is an primarily I-3 District, except for an existing LM-SC District at the southwest corner of Ft. Riley Boulevard and S. 15<sup>th</sup> Street. The proposed rezoning is consistent and compatible with the surrounding zoning districts.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The Manhattan Urban Area Comprehensive Plan shows the site as Industrial.

### ***Characteristics***

This category includes light manufacturing, warehousing and distribution, indoor and screened outdoor storage and other industrial services and operations.

### ***Location***

Industrial uses should be located away from population centers or be adequately buffered. Traffic should not pass through residential areas. Access should be to one or more major arterials or highways capable of handling heavy truck traffic. Light industrial uses can typically be located in areas that also contain some highway-oriented commercial uses, and might benefit from close proximity and better access to their local customer.

The proposed rezoning combines light industrial and service commercial uses adjacent to a major street, Ft. Riley Boulevard. There is some highway commercial activity in the area, primarily north of Ft. Riley Boulevard, and at the west end of Fair Lane. An LM-SC District is to the west of the site. Access to the site is not through residential areas.

The proposed rezoning to LM-SC District is generally in conformance with the Manhattan Urban Area Comprehensive Plan.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** The site is a part of the City's original platted Ward Districts. The site has been undeveloped for an undetermined period of time..

1954-1969	A, First Dwelling House District
1954-1970	B, Second Dwelling House District
1954-1971	E, Light Industrial District
1969-2006	I-3, Light Industrial District

**CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:** The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

The Light Manufacturing-Service Commercial District is designed to promote and encourage diverse economic growth through coordinated and efficient use of land and collocation of light industrial and highway service commercial activities. Minimum lot size in the LM-SC District along a limited access arterial street is 20,000 square feet. The site is greater in area than minimum lot size.

*Attachment No. 1*

**RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** There appears to be no relative gain to the public that denial would accomplish. It may be a hardship on the owner if the rezoning is denied. The owner indicates a desire to relocate from their current business location at 700 N. 3<sup>rd</sup> Street, which is in the Manhattan Marketplace, Unit Two, Planned Unit Development. The applicant has indicated a desire to sell vehicles, as well as have a truck rental business. The I-3 District permits vehicle repair and automobile rental, but not truck rental and automobile sales.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate sanitary sewer and water are available to serve the site.

The site adjoins Ft. Riley Boulevard to the north and access will be from S. 15<sup>th</sup> Street and S. Manhattan Avenue connections to Fair Lane, since no access is allowed onto Ft. Riley Boulevard from the site. S. Manhattan Avenue and Ft. Riley Boulevard intersection is from a stoplight controlled intersection with left turn lanes off Ft. Riley Boulevard. Currently, there are no dedicated left-turn lanes on Ft. Riley Boulevard at the intersection of Ft. Riley Boulevard and S. 15<sup>th</sup> Street. However, left turn lanes on Ft. Riley Boulevard at the intersection Ft. Riley Boulevard and S. 15<sup>th</sup> Street are proposed to be constructed in 2007. The proposed rezoning should not adversely affect the motoring public making left turn movements onto S. 15<sup>th</sup> Street due to traffic improvements at the intersection, which are scheduled for construction in 2007.

Fair Lane alley is the limited in width and has been used by businesses along its frontage for many years. Traffic volumes may increase as a result of the rezoning, but would not be inconsistent with the permitted traffic generators that I-3 District allows as permitted uses, such as auto rental, car washes, vehicle repair and similar vehicle related uses.

**OTHER APPLICABLE FACTORS:** None.

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District.

### **ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District, stating the basis for such recommendation.

*Attachment No. 1*

2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of 1423 Fair Lane from I-3, Light Industrial District, to LM-SC, Light Manufacturing-Service Commercial District, based on the findings in the Staff Report.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** September 11, 2006

06020

**STAFF REPORT**

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** C-6, Heavy Commercial District.

**TO:** C-5, Highway Service Commercial District.

**APPLICANT:** Ron Oberg.

**ADDRESS:** 1245 Bracken Court, Wichita KS 67206.

**OWNERS:** BBV LLC.

**ADDRESSES:** 1901 Ft. Riley Boulevard, Manhattan, KS 66502.

**LOCATION:** northwest of the intersection of Hayes Drive and McCall Road.

**AREA:** approximately .88-acres (38,333 square feet).

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, August 28, 2006

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, September 18, 2006

**CITY COMMISSION:** Tuesday, October 3, 2006

**EXISTING USE:** Vacant heavy commercial tract of land.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** flat grass covered site, which drains to open swales along the south and east sides of the property. The tract is in the 100 Year Flood Plain. The 100 Year Flood elevation is 1008 feet above sea level in the industrial park. The lowest enclosed floor for new construction must be one (1) foot above the flood elevation.

**SURROUNDING LAND USE AND ZONING:**

(1) **NORTH:** gymnastics center; C-6 District.

(2) **SOUTH:** McCall Road, Super Wal-Mart, Goodyear Tire Store and other service commercial uses; PUD and C-5 District.

**(3) EAST:** Hayes Drive, storage units; I-2, Industrial Park District.

**(4) WEST:** trash service and future service commercial; C-6 District and future Limey Pointe PUD.

**GENERAL NEIGHBORHOOD CHARACTER:** The general character of the neighborhood is a mix of industrial park and highway commercial uses. The neighborhood, in the vicinity of Hayes Drive and McCall Road is developing with retail and service commercial uses.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The minimum lot size in the C-6 District is 10,000 square feet. The 38,333 square foot tract exceeds the minimum lot size for permitted and conditional uses allowed in the C-6 District and is suitable for heavy commercial development.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The proposed C-5 District is compatible with highway oriented businesses in the surrounding area. The site is located along a major street, McCall Road, and in close proximity to another major street, Tuttle Creek Boulevard. Increases in traffic, light and noise will be consistent with existing and future conditions in the neighborhood.

**6. CONFORMANCE WITH COMPREHENSIVE PLAN:** The Future Land Use Map for the Northeast Planning Area designates the site as Community Commercial (CC). Applicable policies include:

#### COMMUNITY COMMERCIAL (CC)

##### *CC 1: Characteristics*

Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around

*Attachment No. 2*

the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.

***CC 2: Location***

Community Commercial Centers should be located at the intersection of one or more major arterial streets. They may be located adjacent to urban residential neighborhoods and may occur along major highway corridors as existing uses become obsolete and are phased out and redeveloped over time. Large footprint retail buildings (often known as “big-box” stores) shall only be permitted in areas of the City where adequate access and services can be provided.

***CC 3: Size***

Typically require a site of between 10 and 30 acres.

***CC 4: Unified Site Design***

A unified site layout and design character (buildings, landscaping, signage, pedestrian and vehicular circulation) shall be required and established for the center to guide current and future phases of development. Building and site design should be used to create visual interest and establish a more pedestrian-oriented scale for the center and between out lots.

***CC 5: Architectural Character***

Community Commercial Centers shall be required to meet a basic level of architectural detailing, compatibility of scale with surrounding areas, pedestrian and bicycle access, and mitigation of negative visual impacts such as large building walls, parking areas, and service and loading areas. While these requirements apply to all community commercial development, they are particularly important to consider for larger footprint retail buildings, or “big-box” stores. A basic level of architectural detailing shall include, but not be limited to, the following:

- Façade and exterior wall plane projections or recesses;
  - Arcades, display windows, entry areas, awnings, or other features along facades facing public streets;
- 
- Building facades with a variety of detail features (materials, colors, and patterns); and
  - High quality building materials.

***CC 6: Organization of Uses***

Community commercial services should be concentrated and contained within planned activity centers, or nodes, throughout the community. Within each activity center or node, complementary uses should be clustered within walking distance of each other to facilitate efficient, “one-stop shopping”, and minimize the need to drive between multiple areas of the center. Large footprint retail buildings, or “big-box” stores should be incorporated as part of an activity center or node along with complementary uses. Isolated single store developments are strongly discouraged.

***CC 7: Parking Design and Layout***

Uninterrupted expanses of parking should be avoided. Parking areas should be broken into smaller blocks divided by landscaping and pedestrian walkways. Parking areas should be distributed between the front and sides of buildings, or front and rear, rather than solely in front of buildings to the extent possible.

***CC 8: Circulation and Access***

Clear, direct pedestrian connections should be provided through parking areas to building entrances and to surrounding neighborhoods or streets. Integrate main entrances or driveways with the surrounding street network to provide clear connections between uses for vehicles, pedestrians, and bicycles.

The proposed C-5 District is generally in conformance to the Comprehensive Plan. The single-use highway service activity is generally discouraged to reduce multiple vehicle trips. The proposed rezoning site is limited in area and is an example of a single-use site that the Plan also recognizes may occur in the area.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:** Part of the site was annexed in 1968 and the other part in 1969. The site has been vacant for an undetermined period of time.

1968- 1969	E,	Light Industrial District
1969- 1971	I-3,	Light Industrial District
1971- 1979	I-2,	Industrial Park District
1979- 2006	C-6,	Heavy Commercial District

**CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE:** The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning

*Attachment No. 2*

districts to assure compatibility; and to protect property values. The C-5 District is designed to provide for businesses offering accommodations, supplies, or services to motorists, and for certain specialized activities which require access to major streets and highways. The site is along a major street, McCall Road, and in close proximity to Tuttle Creek Boulevard, another major street.

The proposed rezoning is consistent with the intent of the C-5 District.

**RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT:** The site is located in close proximity to the City's public water well fields. The C-5 District allows underground storage of liquid fuel, such as gasoline associated with an automobile service station or convenience store. The rezoning site is within the well field limits, which prohibit underground storage tanks. No other adverse impacts to the public should be expected as a result of the rezoning. Denial of the request may be a hardship upon the applicant. The applicant would like to develop the site with a drive-in restaurant, which the C-6 District prohibits. A restaurant, not including a drive-up window, is a Conditional Use in the C-6 District.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Adequate streets, sanitary sewer, and water are available to serve the site. No additional public improvements are needed to serve the site as a part of the proposed C-5 District.

**OTHER APPLICABLE FACTORS:** None.

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of an approximate .88 acre tract of land on the northwest corner of Hayes Drive and McCall Road from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of an approximate .88 acre tract of land on the northwest corner of Hayes Drive and McCall Road from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.

*Attachment No. 2*

3. Table the proposed rezoning to a specific date, for specifically stated reasons.

**POSSIBLE MOTION:**

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning an approximate .88 acre tract of land on the northwest corner of Hayes Drive and McCall Road from C-6, Heavy Commercial District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report .

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** September 11, 2006

06021

**STAFF REPORT  
STATE OR MUNICIPAL FACILITY REVIEW**

**APPLICANT:** Board of Commissioners of Riley County

**ADDRESS:** 110 Court House Plaza

**LOCATION:** Riley County Law Enforcement Center (LEC)

**AREA:** 6.33 acres

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, August 28 , 2006

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, September 18, 2006

**CITY COMMISSION:** Tuesday, October 17, 2006

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*At the conclusion of the hearing, the Manhattan Urban Area Planning Board shall forward its recommendation to the Governing Body. Such recommendation shall include all factors and reasons the Board relies upon to support such recommendation. In arriving at such recommendation, the Planning Board shall balance the public interests to be served by the construction or expansion of the utility or facility, as opposed to the impact upon interests intended to be protected by the Zoning Regulations. In balancing such interests, the Planning Board shall consider factors, such as:*

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**EXISTING USE:** Riley County LEC approved in 1998 (Ordinance No. 6005 attached). The LEC is the headquarters for the Riley County Police Department (RCPD). The application documents indicate there are 184 off-street parking spaces and 7 ADA parking spaces.

**PROPOSED USE:** a proposed 10,860 square building expansion on the north side of the existing building for maximum security housing of prisoners that must be separated from other prisoners. Several multipurpose rooms are proposed, one of which will be for a laundry and the others on an as needed basis, such as consoling of a prisoner. No additional off-street parking is proposed. The facility will be manned by existing staff. A security fence and gate are proposed in front of the expansion and along the northern and eastern boundary lines connecting to an existing fence on the eastern boundary line.

*Attachment No. 3*

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is bounded on the south and west by Ft. Riley Boulevard and Seth Child Rod, respectively. The northeast side of the site is along Wildcat Creek. The site drains to Wildcat Creek. The existing LEC is approximately 33,500 square feet of jail space and 24,100 square feet of administrative space. Accessory buildings include a detached vehicle service building in the southeast corner of the site and a storage building along the south side of the northern access road.

**THE NATURE AND SCOPE OF THE MUNICIPALITY OR STATE AGENCY:** The Riley County Police Department provides law enforcement and detention operations for all of Riley County.

**THE FUNCTION OF THE UTILITY OR FACILITY:** The existing LEC provides detention and administrative services for Riley County.

**THE EXTENT OF THE PUBLIC INTEREST TO BE SERVED BY THE UTILITY OR FACILITY:** The applicant indicates that, "The Riley County Police Department serves the public good through enforcement of laws and ordinances within the County and communities herein. The staff of officers and administrative personnel provide services to safeguard our population from criminals and those who would commit crimes." The proposed expansion is intended to increase the effectiveness of the services provided by the LEC.

**THE EFFECT THAT REGULATION OF THE CONSTRUCTION, OR EXPANSION, EITHER BY THE IMPOSITION OF REQUIREMENTS NECESSARY TO MITIGATE IMPACTS OR BY A COMPLETE DENIAL, WILL HAVE UPON THE MUNICIPALITY'S, OR STATE AGENCY'S, ABILITY TO EFFICIENTLY, ECONOMICALLY AND PRUDENTLY MEET THE PUBLIC INTERESTS THEY ARE SERVING:** The effect of regulation by imposing mitigating requirements on the proposed expansion, or the complete denial of the proposed expansion, would reduce the effectiveness of the RCPD by hindering the RCPD's ability to house maximum security prisoners in a separate area of the LEC. The applicant indicates that, "The proposed addition is primarily allocated to housing maximum security inmates as this is the fastest growing component of detention population in this area."

**THE IMPACT THAT CONSTRUCTION OR EXPANSION OF THE UTILITY OR FACILITY WILL HAVE UPON THE LEGITIMATE INTERESTS OF THAT PORTION OF THE COMMUNITY IN WHICH IT IS PROPOSED TO BE LOCATED:** Minimal impact is expected on the surrounding neighborhood. Traffic light and noise as a result of the expansion is minimal. Adjoining properties to the south and west are highways. To the east is Wildcat Creek and vacant residential land in the Wildcat

*Attachment No. 3*

Creek Floodway. No portion of the expansion, however, is in the 100 Year Flood Plain part of Wildcat Creek. To the north is a veterinary clinic in the C-5, Highway service Commercial District. The proposed expansion is setback from the north lot line a distance of approximately 75 feet. The expansion is setback from Seth Child Road the same front yard setback as the existing building, or approximately 180-190 feet at the point of the expansion. The front and rear building heights are at the same heights as the existing building. The expansion will be constructed with similar materials.

**IF THE OWNER OF THE UTILITY OR FACILITY IS THE CITY OF MANHATTAN, AND IF THE FACILITY OR UTILITY IS OF A TYPE EMBRACED WITHIN THE COMPREHENSIVE PLAN, WHETHER OR NOT IT IS IN CONFORMITY WITH THAT PLAN:** The Comprehensive Plan identifies the site as Public/Semi-Public, which reflects the existing LEC. The proposed expansion conforms to the Comprehensive Plan.

**OTHER FACTORS AS THE PLANNING BOARD DEEMS APPROPRIATE AND RELEVANT:** The Manhattan Urban Area Planning Board may consider other factors it deems appropriate with respect to the expansion.

**STAFF RECOMMENDATION:** City Administration recommends approval of the proposed expansion for a maximum security addition to the Riley County Law Enforcement Center, with the following condition of approval:

1. The expansion shall be constructed as proposed.

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*The Planning Board shall not recommend approval of the request unless it determines, by a preponderance of the evidence, that the public interests to be served by the construction or expansion of the utility or facility outweigh any impact upon legitimate community interests, as such impact is mitigated by any requirements of the Planning Board.*

*If the Planning Board recommends approval, they shall also recommend any requirements or conditions they deem necessary to mitigate impacts caused by such use. Such requirements or conditions may include, but are not limited to, any bulk, or other requirements, which would have otherwise been applicable within the zoning district in which the proposed use is to be placed.*

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## **ALTERNATIVES**

It appears the Planning Board has the following alternatives concerning the issue at hand. The Board may:

1. Hold a public hearing on the proposal and, following the hearing, recommend approval of a proposed expansion of the Riley County LEC, based on the findings in the staff report, with the one condition of approval recommended by City Administration.
2. Hold a public hearing on the proposal and, following the hearing, recommend denial of the proposed expansion of the Riley County LEC, for specifically stated reasons.
3. Hold a public hearing on the proposal and, following the hearing, modify the site plan and/or conditions of approval, to meet the needs as perceived by the Planning Board, and establish such conditions, if any, as deemed necessary to mitigate any impacts created by the proposed expansion of the Riley County LEC.
4. Table the public hearing of a proposed expansion of the Riley County LEC, for specifically stated reasons and provide further direction to City Administration.

## **RECOMMENDATION**

City Administration recommends that the Planning Board:

1. Hold a public hearing on the proposed expansion of the Riley County LEC;
2. Determine by a preponderance of the evidence, that the public interests to be served by the proposed expansion of the Riley County LEC, outweigh the impacts upon the legitimate community interests, as mitigated by requirements of the Planning Board; and,
3. Recommend approval of the proposed expansion of the Riley County LEC, with the one condition of approval recommended by City Administration. This recommendation is based on the findings in the Staff Report.

## **POSSIBLE MOTION**

The Manhattan Urban Area Planning Board finds that the public interests to be served by the proposed Municipal Facility, outweigh the impacts upon the legitimate community interests and recommends approval of a proposed expansion of the Riley County Law Enforcement Center, based on the findings in the Staff Report, with the one condition of approval recommended by City Administration.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** September 11, 2006

06022